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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

RODERICK HERBERT,

No. C 06-5532 SBA

Plaintiff,

**ORDER**

v.

[Docket No. 17]

STATE FARM MUT. AUTOMOBILE  
INS. CO., *et al.*,

Defendants.

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Before the Court is defendant State Farm Mutual Automobile Insurance Co.'s (State Farm) motion for leave to file an amended answer [Docket No. 17] pursuant to Federal Rule of Civil Procedure 15(a). State Farm seeks to amend its answer to include two additional affirmative defenses regarding the insurance policy predicated on the alleged material misrepresentations made by the plaintiff in procuring the policy.

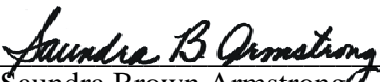
The present motion was filed on February 6, 2007. No opposition to the motion has been submitted and it may therefore be treated as unopposed. *See* N.D. CAL. CIV. R. 7-3 ("Any opposition to a motion must be served and filed not less than 21 days before the hearing date").

Furthermore, the motion appears well-taken on the merits. Under Rule 15(a), "a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires." Such leave to amend under Rule 15(a) is liberally extended unless the amendment (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in litigation; or (4) is futile. *See AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006); *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051-52 (9th Cir. 2003) (per curiam). There is no indication that any of these factors are applicable.

Accordingly, State Farm's motion for leave to file an amended answer [Docket No. 17] is GRANTED.

1 IT IS SO ORDERED.

2 April 4, 2007

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4 Sandra Brown Armstrong  
5 United States District Judge  
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